

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION, a Washington
corporation,

Plaintiff,

v.

MOTOROLA, INC., and MOTOROLA
MOBILITY LLC, and GENERAL
INSTRUMENT CORPORATION,

Defendants.

CASE NO. C10-1823-JLR

DEFENDANTS' RESPONSE TO
MICROSOFT'S MOTION TO SEAL RE
ITS MOTION FOR PARTIAL SUMMARY
JUDGMENT

**NOTED ON MOTION CALENDAR:
Friday, July 19, 2013**

DEFENDANTS' RESPONSE TO MICROSOFT'S MOTION TO
SEAL RE ITS MOTION FOR PARTIAL SUMMARY
JUDGMENT
CASE NO. C10-1823-JLR

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1 **I. INTRODUCTION**

2 Defendants Motorola, Inc. (now Motorola Solutions, Inc.), Motorola Mobility, Inc. and
3 General Instrument Corp. (collectively “Motorola”) do not oppose Microsoft’s Motion to Seal Re
4 Its Motion for Partial Summary Judgment (Dkt 718) regarding the following documents:

- 5 • Exhibits 1-3, 5-7, 9-11 to the Declaration of Christopher Wion in Support of
6 Microsoft’s Motion for Partial Summary Judgment of Breach of Contract and
7 Summary Judgment on Motorola’s Third, Fourth, Fifth, Seventh, Eighth, and Ninth
8 Affirmative Defenses and Second Counterclaim (“Wion Summary Judgment
9 Declaration”); and
10
- 11 • Microsoft’s Motion for Partial Summary Judgment of Breach of Contract and
12 Summary Judgment on Motorola’s Third, Fourth, Fifth, Seventh, Eighth, and Ninth
13 Affirmative Defenses and Second Counterclaim, to the extent it refers to or
14 describes the sealed exhibits listed above.
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16 **II. MOTOROLA DOES NOT OPPOSE MICROSOFT’S MOTION TO SEAL.**

17 Exhibit 1 to the Wion Summary Judgment Motion is excerpts of the transcript of the
18 deposition of Kirk Dailey, which was designated by Motorola as “HIGHLY CONFIDENTIAL
19 ATTORNEYS’ EYES ONLY.” The excerpted pages reference non-public commercially sensitive
20 information regarding Motorola’s business and licensing practices and strategies. Disclosure of
21 this information to third parties and other party employees not covered by the Protective Order
22 would have the potential to lead to competitive harm. Accordingly, Exhibit 1 should remain under
23 seal.
24

25 Exhibit 2 to the Wion Summary Judgment Motion is excerpts of the transcript of the
26 deposition of Brian Blasius, which was designated by Motorola as “CONFIDENTIAL BUSINESS

1 INFORMATION.” The excerpted pages reference non-public commercially sensitive information
2 regarding Motorola’s business and licensing practices and strategies. Disclosure of this
3 information to third parties and other party employees not covered by the Protective Order would
4 have the potential to lead to competitive harm. Accordingly, Exhibit 2 should remain under seal.

5 Exhibit 3 to the Wion Summary Judgment Motion is excerpts of Motorola’s Second
6 Supplemental Log of Withheld Documents, which was designated by Motorola as
7 “CONFIDENTIAL BUSINESS INFORMATION SUBJECT TO PROTECTIVE ORDER.” The
8 excerpted pages reference non-public commercially sensitive information regarding Motorola’s
9 business and licensing practices and strategies. Disclosure of this information to third parties and
10 other party employees not covered by the Protective Order would have the potential to lead to
11 competitive harm. Accordingly, Exhibit 3 should remain under seal.

12 Exhibit 5 to the Wion Summary Judgment Motion is excerpts of the transcript of the
13 deposition of Gregory Leonard, which was designated by Motorola as “HIGHLY
14 CONFIDENTIAL.” The excerpted pages reference non-public commercially sensitive
15 information regarding Motorola’s business and licensing practices and strategies. Disclosure of
16 this information to third parties and other party employees not covered by the Protective Order
17 would have the potential to lead to competitive harm. Microsoft filed a public version of Exhibit
18 5, from which Motorola’s confidential business information was redacted. The un-redacted
19 version of Exhibit 5 should remain under seal.

20 Exhibit 6 to the Wion Summary Judgment Motion is excerpts of the Expert Report of
21 Gregory K. Leonard, Ph.D, which was designated by Motorola as “CONFIDENTIAL BUSINESS
22 INFORMATION SUBJECT TO PROTECTIVE ORDER.” The excerpted pages reference non-
23 public commercially sensitive information regarding Motorola’s business and licensing practices
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1 and strategies. Disclosure of this information to third parties and other party employees not
2 covered by the Protective Order would have the potential to lead to competitive harm. Microsoft
3 filed a public version of Exhibit 6, from which Motorola's and Microsoft's confidential business
4 information was redacted. Motorola takes no position at this time with respect to the propriety of
5 Microsoft's requests as to this document. But, portions of paragraphs 17, 66, 70, 71 of Exhibit 6
6 should remain under seal.
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8 Exhibit 7 to the Wion Summary Judgment Motion is excerpts of the hearing testimony of
9 Kirk Dailey, taken in ITC Investigation 337-TA-752 on January 20, 2012, which was designated
10 by Motorola as confidential. The excerpted pages reference non-public commercially sensitive
11 information regarding Motorola's business and licensing practices and strategies. Disclosure of
12 this information to third parties and other party employees not covered by the Protective Order
13 would have the potential to lead to competitive harm. Accordingly, Exhibit 7 should remain under
14 seal.
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16 Exhibit 9 to the Wion Summary Judgment Motion is a letter produced by Motorola in this
17 litigation, which was designated by Motorola as "CONFIDENTIAL BUSINESS
18 INFORMATION, ATTORNEYS' EYES ONLY, SUBJECT TO PROTECTIVE ORDER." The
19 letter is a confidential licensing communication between Motorola and a third party. Disclosure of
20 this information to third parties and other party employees not covered by the Protective Order
21 would have the potential to lead to competitive harm. Accordingly, Exhibit 9 should remain under
22 seal.
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24 Exhibit 10 to the Wion Summary Judgment Motion is excerpts of the of the transcript of
25 the deposition of K. McNeill Taylor, which was designated by Motorola as "HIGHLY
26 CONFIDENTIAL." The excerpted pages reference non-public commercially sensitive

1 information regarding Motorola's business and licensing practices and strategies. Disclosure of
2 this information to third parties and other party employees not covered by the Protective Order
3 would have the potential to lead to competitive harm. Accordingly, Exhibit 10 should remain
4 under seal.

5 Exhibit 11 to the Wion Summary Judgment Motion is a document produced by third-party
6 Google in this litigation, which was designated by Google as "GOOGLE'S CONFIDENTIAL
7 FINANCIAL INFORMATION-OUTSIDE ATTORNEYS' EYES ONLY." It contains references
8 to confidential communications with the European Commission relating to business and licensing
9 practices. Disclosure of this information to third parties and other party employees not covered by
10 the Protective Order would have the potential to lead to competitive harm. Accordingly, Exhibit
11 11 should remain under seal.

12 To the extent that Microsoft's Motion for Partial Summary Judgment of Breach of
13 Contract and Summary Judgment on Motorola's Third, Fourth, Fifth, Seventh, Eighth, and Ninth
14 Affirmative Defenses and Second Counterclaim, to the extent it refers to or describes the sealed
15 exhibits listed above, it should also remain under seal.

16 **III. CONCLUSION**

17 Motorola does not oppose Microsoft's Motion to Seal Re Its Motion for Partial Summary
18 Judgment (Dkt 718). Nothing herein is intended as a waiver of Motorola's right to contest
19 Microsoft's designation of material as Confidential Business Information in accordance with the
20 terms of the Protective Order. Motorola expressly reserves the right to do so as the circumstances
21 warrant.
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1 DATED this 17th day of July, 2013.

2 Respectfully submitted,

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***Attorneys for Motorola Solutions, Inc.,
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CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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DATED this 17th day of July, 2013.

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